

Remarks

Claims 76-102 were pending in the subject application. By the Amendment under 37 C.F.R. § 1.111 dated December 31, 2001, the applicants amended claims 76, 90, 95, 96, and 101 and cancelled claim 91. By this Amendment, the applicants have amended claims 76, 90, 92, 95, 96, and 101. The undersigned avers that no new matter is introduced by this amendment. Entry and consideration of the amendments presented herein is respectfully requested. Accordingly, claims 76-90 and 92-102 are currently before the Examiner for consideration. Favorable consideration of the pending claims is respectfully requested.

By this Amendment, the applicants have amended claims 76, 90, 92, 95, 96, and 101 to correct various typographical errors, replacing "entomopox virus" with "entomopoxvirus", "non-pox virus" promoter with "non-poxvirus" promoter, and early "pox" promoter with early "poxvirus" promoter. Support for these amendments can be found throughout the subject specification including, for example, at page 75, lines 11-24, and page 81, lines 15-24, of the subject specification, which indicates that promoters recognized by the cellular (not poxvirus) RNA polymerase of the host cell can be used.

Claims 76-102 have been rejected under 35 U.S.C. § 112, first paragraph, as non-enabled by the subject specification. In the Amendment dated December 31, 2001, the applicants indicated that a Declaration under 37 C.F.R. § 1.132 would be submitted at a later date. Submitted herewith is the Declaration by Dr. Richard W. Moyer, under 37 C.F.R. § 1.132, for the Examiner's consideration. The applicants respectfully submit that the subject invention, as now claimed, is fully enabled by the subject specification.

In view of the applicants' amendments and remarks above, and the Declaration under 37 C.F.R. § 1.132 submitted herewith, reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, first paragraph, is respectfully requested.

In view of the foregoing remarks, the applicants believe the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 or 1.17 as required by this paper to Deposit Account 19-0065.

The applicants invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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Attachments: Marked-Up Version of Amended Claims
Declaration under 37 C.F.R. §1.132 by Dr. Richard W. Moyer

MARKED-UP VERSION OF AMENDED CLAIMS

Claim 76 (Twice Amended):

A method for delivering a polynucleotide encoding a protein to a vertebrate cell, said method comprising introducing into said vertebrate cell a recombinant [entomopox virus] entomopoxvirus vector comprising said polynucleotide operably linked with a heterologous early [pox] poxvirus promoter sequence or a [non-pox virus] non-poxvirus promoter sequence, thereby delivering and expressing said polynucleotide encoding said protein in said vertebrate cell.

Claim 90 (Twice Amended):

A recombinant [entomopox virus] entomopoxvirus vector comprising a polynucleotide encoding a protein operably linked with a [non-pox virus] non-poxvirus promoter sequence.

Claim 92 (Amended):

The vector according to claim 90, wherein said [entomopox virus] entomopoxvirus is *Amsacta moorei* [entomopox virus] entomopoxvirus.

Claim 95 (Twice Amended):

The vector according to claim 90, wherein said [non-pox virus] non-poxvirus promoter sequence is capable of driving expression of said polynucleotide encoding said protein.

Claim 96 (Twice Amended):

The vector according to claim 95, wherein said [non-pox virus] non-poxvirus promoter sequence is selected from the group consisting of CMV and herpes TK.

Claim 101 (Twice Amended):

A cell comprising a recombinant [entomopox virus] entomopoxvirus vector comprising a polynucleotide encoding a protein operably linked with a [non-pox virus] non-poxvirus promoter sequence.